

Meeting of 1999-2-23 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
FEBRUARY 23, 1999 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell,      Also Present:  
Presiding      Bill Baker, City Manager  
                John Vincent, City Attorney  
                Brenda Smith, City Clerk  
                Lt. Col. Jeff Ewing, Fort Sill Liaison

The meeting was called to order at 6:22 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One  
            Richard Williams, Ward Two  
            Jeff Sadler, Ward Three  
            John Purcell, Ward Four  
            Robert Shanklin, Ward Five  
            Charles Beller, Ward Six  
            Stanley Haywood, Ward Seven  
            Randy Warren, Ward Eight

ABSENT: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF FEBRUARY 9, 1999.

MOVED by Shanklin, SECOND by Haywood, for approval of the Minutes. AYE: Sadler, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Carol Gardner, 2306 NW 72nd Street, said a soccer program was planned for the sports complex at 38th and Lee Boulevard about two years ago. She expressed a desire that the program move forward. Mayor Powell said a new director for Parks & Recreation would arrive very soon and the City Manager would ask him to look into this. Haywood said Ms. Gardner is a teacher at Swinney Elementary School.

Ramona Carraway, 2612 G Avenue, said she had spoke at the last meeting about the Feed the Hungry program which is conducted once a month at Town Hall. She said the charge was increased to \$20 per hour and their organization is unable to pay those fees. The Mayor and Council personally donated the funds needed to pay rental fees for this coming Saturday and asked that staff continue to work with the organization to find a suitable, nearby location for this program, possibly with a church or other organization in the downtown area.

ADDENDUM ITEMS:

1. Consider authorizing the Mayor and City Clerk to execute and exchange deeds for Lincoln Park and Vernon Park to Lawton Public Schools for a deed to Albert Johnson Park. Exhibits: None.

Vincent said staff had worked with Chuck Wade, attorney for the School Board, and reached an agreement to trade Lincoln and Vernon Parks to the Lawton Public Schools for the area that is known as Albert Johnson Park at 82nd and Welco. The School Board placed a reversionary clause on the deed to Albert Johnson Park. He said there was a question as to whether the City should include a reversionary clause on the Vernon Park property, which is located by Douglas School. Lincoln Park is dealt with in the deeds of dedication to the City and it can be used only for school or park purposes so there is not a need for any extra effort on that deed. Vincent said Council could accept the deeds as written or decide whether a reversionary clause should be included in the Vernon Park deed or have discussions with Mr. Wade on the reversionary clause on Albert Johnson Park. Mayor Powell asked for Vincent's recommendation. Vincent recommended including a reversionary clause on the deed for Vernon Park because the land would have some commercial value if it is not used as a park, as would Albert Johnson Park if it were ever closed.

Purcell said the City is attempting to determine if there is a need for all of the parks. Some were acquired 50 or 60 years ago and it is now difficult to determine who to give it back to, if that is to be the choice. He said the City agreed to trade the land but the School Board added the reversionary clause to the Albert Johnson Park transaction. Purcell said he did not think it was a good idea for the City to add a reversionary clause to Vernon Park or to accept the reversionary clause in Albert Johnson Park. He said those clauses could cause the same problems in the future that the City is facing now on other park transactions, and that he would not support the item with the reversionary clauses.

Beller said this transaction has been discussed for two years and if something were to happen to either Vernon or Albert Johnson Park, they would revert to either the City or the School Board, so there would not be a real question of ownership. He said the residents are anxious to have the transaction completed for Albert Johnson Park and spoke in favor of the trade, even if the reversionary clause is included only on one piece of property.

Williams said he did not have a problem with the reversionary clause by the School Board and it could send a message that the City wanted to work in good faith with that entity.

MOVED by Beller, SECOND by Williams, to authorize the Mayor and City Clerk to execute and exchange deeds for Lincoln Park and Vernon Park with the Lawton Public Schools for a deed to Albert Johnson Park.

Beller said this would enable the City to put funding into Albert Johnson Park that the residents have been promised for the last two or three years, and the residents have put forth a lot of effort in improving that park. Purcell asked if the motion was with or without the reversionary clauses. Beller said it is as it was presented by the School Board.

SUBSTITUTE MOTION by Purcell, SECOND by Warren, to approve and authorize the Mayor and City Clerk to execute and exchange deeds for Lincoln Park and Vernon Park for a deed for Albert Johnson Park, minus any reversionary clauses.

Mayor Powell said the original motion is to accept it as written and the substitute motion is to accept it without the reversionary clauses.

Beller asked Vincent if this would have to go back to the School Board for their approval. Vincent said these particular parcels have not been approved by the School Board for acceptance to his knowledge and asked Wade to comment.

Chuck Wade, Attorney for the school system, said when this was originally proposed by the City to the school system, it was based on all three properties, to include the City's portion of Ron Stephens Stadium. Thorough research concluded that this was about the third time the City has endeavored to exchange Ron Stephens Stadium to the School Board for a piece of property, and the last time was in about 1970 for a couple of acres by the City-County Health Department. The school system minutes show that transaction being approved whereby the school system would receive Ron Stephens Stadium in exchange for that property and the deed was never recorded. He said that is the reason for the second agenda item. Wade said as it was initially proposed, the school system would have gotten significantly more consideration than just Vernon and Lincoln Park. He said the School Board unanimously approved the reversionary clause and if that parcel ceased to be used for park purposes in the future, it would have significant potential value.

Vincent said the substitute motion was to approve the land swap with no reversion on either side. Mayor Powell asked if that would have to go back to the Board of Education before it could be done. Purcell said it would have to go to the Board of Education anyway because it has not approved either of these. Wade said the Board approved it with the reversion. Purcell asked if that was for three properties at that time. Wade said the next agenda item addresses the third portion. Mayor Powell asked how many votes were required on the substitute motion for passage and Vincent said five votes.

VOTE ON SUBSTITUTE MOTION: AYE: Purcell, Warren, Sadler. NAY: Shanklin, Beller, Smith, Williams. ABSTAIN: Haywood. SUBSTITUTE MOTION FAILED.

Purcell asked if the original motion included a reversionary clause on Albert Johnson and Vernon, or just on Albert Johnson. Beller said just on Albert Johnson.

VOTE ON ORIGINAL MOTION: AYE: Shanklin, Beller, Smith, Williams, Sadler. NAY: Warren, Purcell. ABSTAIN: Haywood. MOTION CARRIED.

2. Consider authorizing the Mayor and City Clerk to execute and convey a deed to Independent School District #8 for the City's portion of Ron Stephens Stadium. Exhibits: None.

Vincent said Wade had alluded to some of the history of Ron Stephens Stadium. He said when this was presented to the School Board 18 months ago, the question was later raised that the School Board had already accepted Ron Stephens Stadium from the City in a land swap for what has now become the child guidance center south of the County Health Department. Vincent said on February 22, 1971, that in fact did take place through various motions by both the School Board and the City Council. He said a deed had been prepared to deed the City's portion of Ron Stephens Stadium to the School Board to consummate the deal that was started 28 years ago. Vincent said certain water lines and drainage facilities are being reserved that are in the vicinity of the property and that was not in the original deed, and that is acceptable to the School Board. He recommended approval of this final transfer.

MOVED by Beller, SECOND by Smith, to authorize the Mayor and City Clerk to execute a deed conveying to Independent School District #8 the City's portion of Ron Stephens Stadium.

Wade said there is a ten foot strip of land that the school system still owns on the west end of the health and guidance center and for some reason, it never got deeded to the City and the school system could create a land lock. He said in the spirit of getting all of the issues resolved, he anticipated that the School Board would approve the transfer, at no further consideration, to the City for the ten foot strip, which is about 300' x 10'.

VOTE ON MOTION: AYE: Beller, Warren, Smith, Williams, Sadler, Purcell, Shanklin. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

Mayor Powell asked that Item 13 be stricken from the agenda. The item had been dealt with in the Lawton Water Authority meeting held immediately prior to this meeting.

#### BUSINESS ITEMS:

1. Consider authorizing staff to prepare plans and specification to replace waterlines on Country Club Drive (SW 50th Street to SW 52nd Street) and SE Barclay Road (SE Avalon to SE Lee Boulevard) and determine a funding source. Exhibits: Letter dated 12/30/98 from Ken Couch; Project Location Maps.

Jerry Ihler, Public Works/Engineering Director, said Council Members Warren and Purcell, as well as City staff, have received numerous complaints about water line breaks in the areas shown. The CIP proposal eight months ago reflected Country Club Drive as the first priority. SE Barclay was not on that list, however, during the past year, approximately 23 breaks have occurred on Barclay and it would make it very close to the top priority for replacement. Ihler recommended that the lines be replaced. He said the length of the Country Club Drive line is shown as 580 feet, and it should be 850 feet. The dollar value is correct, and funding source is 1995 CIP.

Williams asked if crews put a band on the pipe if it is the first water line break, and then replace the pipe the second time. Ihler said if the break is under a driveway, the pipe section will be replaced; if it is a minor leak and the first in the yard, crews will put a band on it; if it is a second leak in the yard, the new policy is to replace that section of pipe.

MOVED by Purcell, SECOND by Warren, to authorize staff to prepare plans and specifications to replace waterlines on Country Club Drive (SW 50th Street to SW 52nd Street) and SE Barclay Road (SE Avalon to SE Lee Boulevard, and the funding source would be the 1995 CIP. AYE: Haywood, Warren, Smith, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

2. Consider designating the Southeast corner of 35th Division Park for use as a playground, and authorizing the Mayor to appoint members to work on this project. Exhibits: None.

Shanklin said pictures were distributed showing the type of playground that is being proposed. Old Town North voted to ask the Council's permission that the Southeast corner of 35th Division Park be used for this playground. He said Mark Glenn of Glenn Oil Company is present and is co-initiator of this agenda item.

Mark Glenn, #1 SE 75th Street, said he visited a playground in Santa Barbara, California, that was community built and the local residents and County raised the funds. The park was constructed like an old-fashioned barn raising; materials are donated, and the more materials and labor that are donated, the lower the cost. He presented a video segment of Dan Rather, CBS News, concerning a similar playground that was constructed in Enid, Oklahoma. Shanklin said the Enid project cost was \$500,000.

Glenn said Norman, Oklahoma, will begin construction of a similar park in four weeks. He said when everything is ready, they bring 500 people together working in shifts and build the park in five days. Glenn said he estimated Lawton's park would cost between \$150,000 and \$200,000, and the more materials that can be donated, the less the cost. The lumber is pressure treated, similar to that used in Six Flags on the wooden roller coaster and it can last 25 years or more if taken care of. He said there would be a need for City funding in the future and requested that \$50,000 be considered in the next budget.

Beller asked if the lumber is a proprietary product from a particular source. Glenn said the only proprietary product is the architectural fee. The architect will fly in from New York on design day and bring children together from local elementary schools to obtain their input and ideas, and the architect takes that back to New York to draw the blueprint and then present it to the community.

Mayor Powell said Mr. Glenn had presented this information to him previously and they discussed the park in Old Town North, and suggested that Glenn meet with Shanklin and the residents on the project. MOVED by Shanklin, SECOND by Haywood, to designate the Southeast corner of 35th Division Park and that the Mayor appoint Mr. Glenn as the general coordinator of the commission.

Shanklin said Glenn will likely request the Mayor consider certain persons for appointment to the commission, and the Mayor will also have some that would like to serve.

Purcell asked why the Southeast corner of 35th Division Park was selected as the location, and if that is the best place for it. He said it would be a pretty good size project and people from all over the City would use it.

Glenn said he expected the City as a whole to use the park, and the location is centrally located and meets the criteria set out by the architect. Old Town North has mature trees for shade, restroom facilities, and the residents in that block will keep an eye on the park. If it is placed in a remote area, it could be subject to vandalism or not be taken care of properly.

Warren said he was concerned about the parking issue and did not want that to cause a problem. He said people would come from all parts of the City and it could put a burden on those who live in the area. Warren said he also felt that consideration should be given to the fact that funding may not be available. Glenn said he understood and that they were ready to go forward.

Haywood said there is a need for a mass transit system, and if that were available it could be used to access the park. He said this is an opportunity to bring the citizens of the City together and that coming together as a community is a very important consideration.

Williams said he would question whether this is the best location for a \$200,000 park. He said it would be a large investment in equipment and that he did not know if this area could sustain the type of traffic the park could generate. Williams said it is a worthwhile project that he would support but that he felt there were other locations that may be better for the park.

Shanklin said Mr. Glenn selected the site, and it was not him, but that he agreed with the choice. He said 35th Division is north of City Hall six blocks. Shanklin said a junior high is needed to solidify this part of town. He said 35th Division Park has a wading pool, tennis court and big trees, and the Southeast corner could accommodate the playground. Warren suggested the group travel to Enid to see the parking and traffic to be sure that problems are avoided in that regard.

VOTE ON MOTION: AYE: Warren, Smith, Sadler, Purcell, Shanklin, Beller, Haywood. NAY: Williams. MOTION CARRIED.

3. Consider awarding a contract to an engineering firm for professional engineering services for the Study and Report Phase of the Water System Analysis Project and determine a funding source. Exhibits: None.

Ihler said in September 1998, RFP's were sent for a study and report for long term and short term water needs. Proposals were received from seven firms. The Engineer Selection Committee reviewed those proposals and short listed the three most qualified firms, and requested those firms provide fee proposals and interviews. The water system analysis portion consists of analyzing the Medicine Park plant to determine the useful life of the south portion of the plant, and what modifications could be made to the north portion to provide expansion and meet future regulations, as well as analyze the need for any future treatment capacity in a facility such as a Southeast Water Treatment Plant. An addition to the proposal was for the consultant to look at gate operations and how it pertains to the water supply if we must deviate from the current operating policy and how it relates to the past injunction with the previous lawsuit.

Ihler said Metcalf and Eddy was one of the firms on the short list, and they had great concerns about the potential liability with regard to analyzing the gate operations, so only two firms provided interviews with the Engineer Selection Committee. The Committee recommends to Council to contract with the firm of CH2M Hill for the study and report phase of the water system analysis, as well as gate operations analysis. The fee for the study and report portion was \$45,000 for gate operations and \$120,000 for the water system analysis, for a contract in the amount of \$165,000. Funding source is 1995 CIP.

MOVED by Purcell, SECOND by Haywood, to authorize award of contract to CH2M Hill for professional engineering services for the study and report phase of the water system project and take it out of the 1995 CIP.

Purcell said when they interviewed the candidates, CH2M Hill indicated they could have the operation of the gate study done within 120 days, and that is important for a variety of reasons and it is needed.

VOTE ON MOTION: AYE: Smith, Williams, Sadler, Purcell, Beller, Haywood, Warren. NAY: None. ABSTAIN: Shanklin. MOTION CARRIED.

4. Receive a briefing and discuss the City's Fire Prevention Codes, and provide guidance to staff. Exhibits: Sections 11-201 and 11-402, Lawton City Code; Section F-313-1, BOCA Fire Prevention Code.

Warren said he felt an explanation was needed on why some of the regulations are in place and on how they work and how they are implemented and enforced. He said a building over 20,000 feet must have a perimeter of 18 feet around the outside of the building to provide a fire lane, which would be understandable for a two story apartment complex, but for a commercial building with a 20 feet concrete wall in the back with no windows, the fire lane does not seem appropriate. Warren said he understood the need to provide for safety, but at some point, the caretaking becomes a hindrance to the lives of the people we are taking care of. He said he did not understand requiring an 18 foot fire lane behind a building where you could not fight the fire from if you were back there.

Baker said he had been spending quite a bit of time on building development issues, and there is an impression in the community that the City is, at times, an impediment to growth and an obstacle to progress because we have so many

restrictions and regulations. He said there is a need to identify the problem, and some may be portions of codes that may not be valid or may be too restrictive or create unnecessary problems. Baker said the City has a serious responsibility to protect the welfare of the citizens, but over the years, the rules have proliferated and they need to be reviewed. He said a suggestion was received that a task force be formed of council members, city staff and people from the building trades, to look at both the codes and the City's procedures and policies. Baker said he was already reviewing the organization and had done some things in that regard. He said we need to change our image in the community, and the term "user friendly" is used so much that he did not like to use it, but we need to be more cooperative and the citizens should be able to see us that way. Baker said it will take time, but this problem will be fixed. He said the Fire Chief and Fire Marshal are present to give a briefing on the BOCA and fire codes if that is Council's desire.

Shanklin said he understood that State law gave three choices of codes to adopt, and it had always bothered him that what applied to Philadelphia, St. Louis or Kansas City, could not possibly be the same for a city that had three ten-story buildings. He said changes can be made in two or three weeks and something a plumber may have started before that would then be wrong.

Beller said the term "user friendly" was referred to and some term is needed to educate the staff that the developers, builders and residents have to be treated in a friendly manner. He said the Council hears numerous horror stories and the Mayor had tried to emphasize being user friendly since he assumed office and even sent out ten commandments on the subject. Beller said he did not favor violating codes, but if there is a way to change them to accommodate someone, Council should be told because it seemed that the most stringent approach possible was being used. He said as recently as yesterday, he heard another horror story, and this should be addressed.

Mayor Powell said he knew the City Manager was addressing problems and that we still had a ways to go. He said he met with developers and trades persons and some changes had been made, but that he would like to appoint the task force and be active in it personally because it was a big part of his campaign and he would stand behind it.

Warren said the City Manager should continue to work on this problem, and he understood that everyone could not be told yes in every instance. He said he would like an answer tonight to the question of why there is a requirement for an 18 foot fire lane behind a building with a 20 foot concrete wall, and is it because of BOCA or because of the City's codes or the reasoning behind that requirement.

Don Barrington, Fire Chief, said the reason for the fire lane is to provide access to the structure, and the 18 foot fire lane is a minimum standard of the Fire Prevention Code, and hydrants must be within 300 feet of any part of the building if it is 20,000 feet or greater. He said the equipment could not get to the building without the 18 foot fire lane.

Warren asked if 11-4-402 is the City's code or is it something that was adopted from BOCA. Barrington said it is the City's code and the City had adopted the BOCA building codes. Warren said the reason for the fire lane appeared to be item three under that section number, and if that is the case, it seems we are doing this to ourselves. Warren read from the document as follows: "for a building or attached building exceeding 20,000 square feet in gross floor area, fire hydrants shall be placed so that no portion of the building shall be located more than 300 feet from a hydrant and shall be fully accessible from paved driveways or fire lanes". He said that makes sense at first glance, but when you think about a building like Republic, for example, which may be 700 feet wide, from this code, it says that any portion of that building must be accessible by a fire lane within 300 feet, and it does not say exterior, so if there is a place in the middle of the building that is more than 300 feet from a fire hydrant, there is a problem and that may need to be fixed.

Mark Mitchell, Fire Marshal, said he had been involved with the Republic site and that the fire codes come from the BOCA Fire Prevention Code, the BOCA Building Code, some of them are locally adopted ordinances, and the NFPA, National Fire Protection Association, may adopt by reference some of the BOCA codes. He said the two issues to provide fire protection are access and available water. Mitchell said there was a fire at the Republic site recently and there were problems with those two issues.

Mitchell said the City Code 11-4-402 was adopted in 1989 or 1990 and the Fire Marshal at that time may have developed that language which was derived from the National Fire Code for buildings over 20,000 square feet. He said it was a rule of thumb to insure that adequate water was available to provide fire protection; another way to do this is to use the ISO formula which considers the type of construction, combustibility, occupancy, exposure and several different things. Mitchell said the ISO formula is much more inclusive. He said a building less than 20,000 square feet requires only a hydrant within 300 feet, and buildings of 20,000 square feet or larger have a heavy fire load which would require additional water. The distance of the hydrant takes into consideration the hydraulics of getting the water from the hydrant to a truck, hose and nozzle, and after 300 feet you experience heavy friction loss in the pressure, especially if the hydrant is not very good. The water cannot be taken at less than 20 psi to protect the water supply system.

Mitchell said the City currently operates under the 1990 BOCA Fire Prevention Code and that is a maintenance code. Almost every building code is designed to prevent fire or collapse, and the building code is a performance code. He said he dealt with contractors daily and had empathy and the requirements are cost prohibitive from time to time but they try to work with them as best they can to find solutions, but property and life safety are serious issues.

Warren said, as an example, for a building that has 20,001 square feet, has a 20 foot concrete wall on the back of it, has a sprinkler system and has hydrants at all four corners; why would we still require the person to have a fire lane behind the building. Mitchell said they do not want to have to go further than 300 square feet for access to a hydrant, and the

hydrants are no good if they are not accessible. Warren said the argument is not about the hydrants, and we could assume the person was willing to put a hydrant every 100 feet except for the back of the building, and there may be 15 fire hydrants, but where is the logic in requiring that a fire lane be built behind that building when there is a 20 foot wall. Mitchell said there must be access to the hydrants and the spacing is "as the hose lays". Mitchell continued to explain theories of fire fighting techniques.

Warren said he was not getting an adequate explanation regarding the question. Mitchell said the code section referenced had been interpreted as meaning the exterior of the building, and Republic has a building over 800 feet long and 250 feet wide, and their approved plans show hydrant spacing every 300 feet to cover the building, and they will have shunts off of the main roads with turn arounds for access. Warren said he had no problem with Republic but did not understand it since the code requires a paved surface with a hydrant every 300 feet, so the code may need to be rewritten to clearly explain it.

Vincent said he was aware of the building Warren was talking about and it is over 300 feet across the back exterior face so there will have to be a fire hydrant in the back unless they redesign it. Warren asked how wide the building is and Vincent said over 370 feet. Beller asked if a variation can be given to a particular building if the same thing can be accomplished in a different manner. Vincent said the provision in question can be changed, and that the code could also be changed with regard to the fact that the Board of Adjustment and Building Board could not vary life safety issues.

Mayor Powell asked if Vincent could meet with the parties. Mitchell said he had been continually in contact with the developer of the building in question and that he would personally consider, to meet the spirit of the code and insure public safety, they have a lot of faith in sprinkler systems and one building has one but two buildings do not, and the city code does provide some latitude with regard to technologies regarding fire suppression. Mitchell said if they would sprinkle those other two buildings, which is above and beyond the requirements of the building code, but as a trade off for that cost prohibitive fire lane down the back. Warren said he had no problem with staff and felt the code should be clarified. Mayor Powell suggested staff meet in this regard and that builders get answers to these restrictions before submitting final plans, rather than having them spend several thousands of dollars later.

Williams asked if a committee would be formed to look at the codes and Mayor Powell said yes.

5. Receive a briefing on the procedures used for disposing of unclaimed firearms in the possession of the police department and provide guidance to staff. Exhibits: None.

Bill Adamson, Police Chief, expressed appreciation to the Mayor for the earlier consideration given to Major Martin and his family. He said the City Manager had asked him to give the briefing regarding weapons the police have confiscated. Every five years, the City auctions off weapons they have confiscated for various reasons. The last auction was in 1993 and currently we have approximately 780 weapons of different types. Weapon owners are notified regarding a hearing before a judge where the City requests permission to take ownership of the weapons for the purpose of trading them. Once the judge grants ownership, an advertisement will be sent to licensed gun dealers only and receive from them a trade offer for a particular type of weapon that the police department specifies, and we would make the trade with the dealer with the best offer. It is an all or nothing trade and the inventory is sent to the dealers; the weapons are displayed for the dealers to look at and be able to make an offer on the type of weapons required by the department. We never transfer illegal weapons and those are destroyed with a chop saw.

Shanklin asked the dollar value of the weapons in 1993 and the dollar value of the weapons on hand. Adamson said his memory of 1993 was \$13 to \$15 per gun on average.

Baker said he saw a television program where some municipalities are being sued by victim's families when the guns get back out on the street. Some communities are bringing lawsuits against gun dealers and manufacturers because of the lives that guns take. He said he wanted Council to know what they were doing and see if there was further guidance.

Shanklin asked if this involved \$10,000. Adamson said it could be that much, although he was not sure as to the types of weapons they currently had, but that could be the approximate offer, not in cash, but in trade.

Purcell asked if Adamson was referring to local gun dealers or if they were those who go from show to show or what type of dealers are being considered. Adamson said he could not vouch for them but they are only those with federal firearms licenses, and what the dealers do with the weapons later, he could not say. He said in 1993 he thought the dealer was from Arizona that got the trade. Purcell said he was not sure it was worth \$10,000 and suggested the guns be destroyed rather than putting them on the street.

Warren said it is only \$10,000, but to the Chief, that is 20 service weapons in the budget. He said guns do not kill people, the people who are pulling the trigger are the ones killing people. Warren said a person would be no more likely to use one of these guns to kill someone than they would a gun that was purchased from the manufacturer or dealer in a new condition. Williams said it is only a trade and if those people want a gun, they will get one. Purcell said if a person can prove the City put the gun back on the street, the result could be a lawsuit which could cost much more than \$10,000.

MOVED by Warren, SECOND by Beller, to authorize the police department to continue with the program of disposing of excess firearms by auction. AYE: Williams, Sadler, Shanklin, Beller, Haywood, Warren, Smith. NAY: Purcell. MOTION CARRIED.

6. Consider authorizing the Mayor to submit to the proper authority for review and action as the proper authority

determines is necessary a letter to the Mayor of the City of Lawton dated February 5, 1999, signed by seven members of the Lawton Metropolitan Area Airport Authority. Exhibits: Letter.

Vincent said Council directed staff at the last Council meeting to bring this item forward for consideration and staff has no recommendation. Beller asked why.

Purcell said he did not feel Council should be taking action on this; the Mayor got a letter and he could do whatever he wanted to with it and it did not need Council action. Mayor Powell said he was directed to put the letter in the possession of the City of Lawton by the City Attorney. Purcell said he understood but did not feel Council action was needed. Mayor Powell said he did not know what to do with the letter so he went to the City Attorney and followed his guidance. Purcell said he felt the City Attorney should make a recommendation and Mayor Powell said he had not given one.

Warren said in lieu of a recommendation from the City Attorney, we are past that now and Council is fully aware of the existence of the letter and has a duty to provide it to the officials that need it and let them make a decision. He said he did not know that Council was in a position to determine if something was a violation of the law.

Beller said we have researched, to a degree, and some attorneys may feel there was a violation, but the majority of the legal opinions may state that it was not an official act of the authority. He said one of the opinions in the Opinion Digest from the Attorney General's office was Opinion 81-69 which stated that the Open Meeting Act prohibits a single member of a public body from meeting privately with each of the other members to obtain their signature on a document; that action took place, but the governing part of that paragraph says "to take an action otherwise required to be taken in an open meeting", which means it was the business of the authority. Beller said he was very upset when he saw the letter and felt it was a violation of the Open Meeting Act, and while it may not be illegal, it was improper in his opinion, as well as unethical. He said each person could pursue it as an individual, if desired, and they did not have to do it as a body.

Beller said there was a frank discussion at the Airport meeting this morning and he felt the Airport Authority would be better after today because opinions had been expressed. He suggested no further action be taken and that nothing would be gained by taking it further. Mayor Powell agreed it would be good to be able to put this behind us and move forward. Warren said he felt it should be given to the District Attorney, and if he threw it in the trash can, that would be fine. Beller said he had taken it to the District Attorney who indicated it would not be a high priority item with his office and that he had also expressed his concerns to Mr. Wade in this regard. Beller said if it were an official act and had something to do with airport business, it could be pursued, but they were expressing their opinions as individual members.

Chuck Wade, Attorney for the Airport Authority, said he spoke with Beller and Mayor Powell and had looked into the issue by speaking with the Attorney General and one of the assistants. He said you will not find total consensus among the legal community on any issue, but the majority are of the opinion that when you look at the definition of a meeting under the Open Meeting Law, it talks about the conduct of official business of the public body. Wade said he was of the opinion that there was not a violation of the Open Meeting Law by the Airport Authority.

Sadler said Council had tabled an appointment until a determination was made as to whether or not there was a violation. He asked if this would affect that appointment. Mayor Powell said the member is continuing to serve and the reappointment would be returned to Council for action.

Mayor Powell said he is fearful of the Open Meeting Law and wanted it to be adhered to 100%. Beller said Council had been told that even at funerals they could not have a quorum. Vincent said he felt it was acceptable to have social activities where all members are present as long as there is not a discussion of business matters. Warren said he did not agree that they were not acting as a body because the test would be whether those seven people would have signed a common document if they were not members of that authority. Vincent said from the City Attorney's standpoint, a violation of the Open Meeting Act is a misdemeanor crime subject to possible jail time and fines by the members who meet in violation of the law, so his opinions on the Open Meeting Law are going to be very, very conservative because he did not want any Council members to go to jail for something he might say.

7. Consider directing staff to look into the possibility of televising pictures of convicted prostitutes and their clients in an attempt to deter this type of crime. Exhibits: None.

Shanklin asked that this item be pulled for the next Council meeting so more information can be obtained.

8. Consider adopting an ordinance amending Sections 10-102, 10-104 and 10-108, Chapter 10, Lawton City Code, 1995, providing for preference for local vendors in contracts for goods and materials. Exhibits: Ordinance No. 99-14.

Smith said this item was long overdue in his opinion because we have only given lip service about supporting the local merchants. He said every dollar spent locally cycles through the economy two and a half to three times before leaving; money spent out of Lawton does not come back. Smith said this is a strong way to support the local merchants who are the backbone of the local economy. He said the new ordinance says "may" award to local vendors, and not "will" award.

Sadler said he had heard comments that this may cost more money and things would be more expensive but that he did not believe it would always cost more. He said it is up to 5% and it may be 1% or less, but local businesses can give service after the sale and the cost would not be significant. Sadler said the consideration that the money would stay local offsets some extra expense. He said local merchants had called since this appeared on the agenda to say they felt the City did not

do enough to support local businesses, although they are asked to support CIP programs or similar issues. Sadler said he had been told that Oklahoma City and Tulsa give 10% preference, although he did not feel Lawton needed to go that far but 5% was reasonable and would be money well spent.

Purcell said Council currently has the authority to give a preference and disagreed with including the statement in the bid package. He said the language that the City may give 5% preference to local bidders is acceptable, but as soon as it is included in the bid package, those from outside may feel they are not going to win the bid and it would discourage competition from companies outside the city.

Mayor Powell said this came up when he was on the Board of Education, particularly with sporting goods vendors, and the comment was made that a local preference would discourage competition, but that did not come to pass. Purcell said he attended School Board meetings for nine months and they spent about \$100,000 more than was needed, and Council was the guardian of the taxpayer money and disagreed with placing the language in the bid package. Purcell said he had no problem with giving the preference, but disagreed with making the statement in the bid package.

Warren said on Page 26, A5B5, it says that one of the ways the Council can judge whether or not to provide someone with the contract is the economic benefit the City would have in awarding a bid. He said he thought this could be done now. Warren said Council must consider taking care of the money of those who elected them, and not build gray areas. He said he had a problem saying the low bid will get it unless Council decides otherwise.

Williams said he was for local businesses and personally tried to buy locally every time he could. He said two factors would force him to not support this measure, the first being the fact that the Council has the ability on every bid that comes for award to select the best bidder, whether they be local or not, with necessary justification. He said the second reason is that Council, as stewards of public funds, if they are spending \$5,000 per year additional supporting local businesses, then that is money that could be put back into infrastructure repair or purchases of other items that staff needs to do their jobs, and when you buy or construct, you are providing economic development in that respect.

Purcell said he could support the ordinance if Item B on Page 25 pertaining to the bid package could be struck.

Shanklin said he could not remember Council awarding to other than the local bidder when the prices were that close and it was brought to their attention. He said he recalled awarding a bid for a tractor, seven or eight years ago, that was \$700 higher to a local firm than the bid from a Tulsa firm, and could not recall if that was 5% difference. Shanklin said he had no problem including language in the bid package saying the City may give the 5% benefit because they know that is the case when they compete in many other places in the state.

Sadler said he thought it was more up-front to include the language in the bid package, but would also support it if the language were removed. He said many purchases do not come to Council because staff may call around and get two or three prices and buy the item; things are bought by the City every day that Council never hears about. Williams said Council has to approve all of the contracts.

Smith said it comes down to providing lip service only and if something is put in writing, it will tell local business people that they have support.

Warren said Council now has the ability to let a contract with a difference of 15% if an economic reason or one of the other five reasons applies, if Council desires. He said if Council passes this, it may limit that ability to 5%. Vincent said you may give that preference but you will not be able to go above 5% and Warren was providing an accurate interpretation. Warren said it may be better to leave it as it is and decide on the floor who should be awarded the contract. Vincent said the sentence at the bottom of Page 26 is a gray area, and Council must determine to waive the lowest bid, even though it may be a responsible bidder, he did not know how to justify that without some language such as this.

Beller said on Page 26, Item Five, it says if the award is made to other than the lowest bidder, the City Council shall accompany its action with a public statement setting for the reasons and such statement shall be included verbatim in the records on file and mailed to all vendors who submitted bids on projects. He asked if that is adhered to currently. Vincent said he was not aware of it prior to his moving into this job and that he issued an opinion several months ago saying it had to be the lowest responsible bidder, and this does not apply to public construction contracts, but on materials and equipment since he had been here, he did not believe there had been an award to other than the lowest bidder. Vincent said if this is passed, the letter may say the contract was awarded to the local firm whose bid was within 5%.

Mayor Powell asked who prepared the language. Vincent said most of it came out of the State Statute; one law is the Oklahoma Preference Act which says the State, through the competitive bidding process, will try to award to Oklahoma bidders whenever possible; the other statute is the Minority Bidding Act which provides for a 5% preference to minority-owned companies in Oklahoma and most of this language came from that act. Vincent said the statement about mailing something to the vendors had been in the code prior to this discussion. Mayor Powell said it was his understanding that it only had to be announced. Vincent said the purchasing division should have been notifying the vendors if the award was to other than the low bidder and providing the reason.

Warren said he thought this should be revised. Vincent said it was not a problem to remove B on Page 25 and it was just a thought to include in the notice that this was a possibility, it is not a requirement.



Sadler asked if this would tie Council's hands in being able to award to a local vendor if the difference was 6% or 8%. Vincent said it would be limited to 5%. Sadler said he was not aware of that and did not know that it would ever come up, but that was reason for concern. Sadler asked if it could say 5% or greater. Vincent said it would require major language changes and may need to be tabled in that case.

Purcell said he understood that staff takes spot bids on fuels where calls are made to find out the lowest bidder and have the fuel delivered tomorrow. He said some of those numbers are three hundredths of a cent per gallon difference, and it does not come to Council to make that decision. Purcell said the language would be needed for those instances because Council does not make those decisions, and they would then be based on an ordinance. Vincent said that would also apply to situations where the purchasing division makes three phone calls to determine the best price.

MOVED by Smith, SECOND by Haywood, to approve Ordinance No. 99-14 striking from Section 2, Paragraph B, waive reading of the ordinance, reading the title only.

Williams said the previous purchasing supervisor sent letters to each member giving further insight. He said a local preference may open the door for other preferences, such as minority or disadvantaged or any other group that might like to have a preference in selling items to the City. Smith said it would apply to any local business. Williams said it could evolve further, and felt it was noble to direct as much opportunity locally as possible, but it would be opening a Pandora's Box.

Mark Glenn said local businessmen spend their money in town, hire people in town, pay sales tax, and give back to the community. He said a large corporation would take the money out of town and it would be gone. Glenn said on the fuels, there would be times when he would lose it by a tenth of a cent on a \$3,500 bid, and he would do his best, but it would go to large corporations. He said he could not touch the motor oil contracts when large corporations such as Texaco dump surplus material on the City.

Paige Mason, 7901 Echo Road, said 5% was a good start for buying Lawton first and it could only have a positive effect on the Lawton economy. She said the businesses in Lawton have the ability to provide for the needs here and if the local government does not support local business, it is hard to provide stability for the business and employees.

Warren suggested removing the section discussed in the motion, and remove Part C also which holds the Council to 5% on Page 27. He said on Item 5, a matrix could be created showing a difference for when the money is kept in the community.

Mayor Powell restated the motion. The Clerk asked if the intent of the ordinance is that the preference also applies on calls to vendors to ask for prices and response was yes.

(Title read by Clerk) Ordinance No. 99-14

An ordinance relating to purchasing, amending Article 1, Chapter 10, Lawton City Code, 1995, amending definition, providing for preference for local vendors in contracts for goods and materials, providing for severability and establishing an effective date.

VOTE ON MOTION: AYE: Sadler, Purcell, Shanklin, Beller, Haywood, Smith. NAY: Warren, Williams. MOTION CARRIED.

9. Consider authorizing the Mayor to send a letter to members of the State Legislative Delegation opposing House Bill 1323. Exhibits: Proposed House Bill 1323.

Vincent said the bill deals with outside water sales with the effect being that once you enter into an outside water sales contract, you cannot cancel it for any reason but can only adjust the prices. He said this would materially affect our ability to provide water inside the City limits and OML is seeking support to get this bill stopped in the Legislature.

Purcell said the bill failed in the Legislature yesterday 59 to 40 but it has been brought up for reconsideration and letters have been solicited. He said he called the two local representatives who voted in favor of this bill and asked them to vote against it if it is reconsidered. Purcell suggested the letter be sent by FAX or it will be too late.

Mayor Powell said we should take care of our citizens first and requested this item. Williams said he did not know that the Mayor needed to ask Council about writing such letters, and that each member should be calling or sending messages to the representatives. Mayor Powell said he would proceed and did not feel it was necessary to call the roll on the item.

10. Consider authorizing staff to prepare plans and specifications for a vehicle maintenance facility building and for a Public Works/Engineering Administration building. Exhibits: None.

Ihler said in August 1998 Council approved the sewer rehabilitation program and authorized \$700,000 for construction of the new combined building for Equipment Maintenance and Public Works Administration. Since that time, there has been a reorganization of the Engineering Division in an effort to expedite the process of review for building permits and subdivisions; four persons have been relocated from Engineering to Code Administration, and the Right of Way Agent has been moved to the City Attorney's office. Code Administration is looking to provide a one stop concept for subdivision and building permit reviews and they will need additional space. The remaining persons in Engineering would provide the basic services of design, construction administration and inspection of public works improvements projects, and those persons would be moved to the Public Works yard and be housed in the Administration building.

Ihler said since there is the potential to have 11 more people at the Administration building, instead of 7 people there will be 19 people, staff recommendation is to have two separate buildings, one for Equipment Maintenance and one for Public Works Administration to include the engineers. He said consideration was needed with regard to the concept of moving the Engineering Division to the Public Works yard, which would free up additional space at City Hall that would be used by Code Administration to create the one stop shopping permit building review, and would provide better coordination between the Engineering Division and Public Works Department in working on the infrastructure projects.

Ihler said they were looking at 4,200 square feet for Admin and Engineering, instead of the 2,000 square feet considered previously, if the new concept is acceptable. If there is support for having two buildings, there are four alternatives to consider. If the new concept is not acceptable, one alternative is to remain with the concept approved in August of having one building to house Equipment Maintenance and Public Works Admin at the cost of \$700,000. The other three alternatives provide for two separate buildings, one for Equipment Maintenance and one for Public Works Admin. and Engineering. The differences in the three alternatives are how they would be funded. Alternative two shows the cost savings in equipment purchases for sewer rehab in the approximate amount of \$180,000, and that alternative recommends using that funding for the building. Alternative three shows the original concept of the \$700,000 approved and taking the remainder of the funds needed for the two buildings from the 1995 CIP. Alternative four shows just using the sewer rehab money for the Equipment Maintenance building in the amount of \$600,000 and there would be \$275,000 necessary to fund the construction of the 4,200 square foot building to house Engineering and Admin.

Williams asked if Sewer Rehab would move into the existing Equipment Maintenance building. Ihler said what was brought forth in August was do we build one building that takes care of the sewer rehabilitation, the sewer construction division and the sewer rehabilitation group, or do we build a building for Equipment Maintenance that would allow us to move Equipment Maintenance into a building that needs additional space to accomplish their tasks and then move Wastewater Collection and Wastewater Maintenance into where the Equipment Maintenance is currently housed and then the new sewer construction and sewer design group would go into the location where Wastewater Maintenance and Wastewater Collection would vacate. Ihler said this adds another scenario of taking Engineering there. Mayor Powell asked if what Ihler just described was what Council approved last August. Ihler said yes. Williams said he did not recall Council discussing moving some of the other divisions. Ihler said they discussed the rational of building one building and taking care of one division and still having three other divisions with a detrimental space problem, and decided to build one building and move everybody around to take care of all four divisions. Warren said it did not include Engineering at that time. Mayor Powell said that is the difference.

Shanklin asked if Ihler said Code Enforcement and permits were being moved down there. Ihler said no, currently Engineering has both sides of the hall in City Hall but four personnel were moved from Engineering to Code Admin. Shanklin asked if that is still in City Hall and Ihler said yes. Ihler said Code Admin would stay in City Hall and that would provide them the space to create the one stop shop for building permit review; the space that the 11 people in Engineering would vacate would be used for Code Admin. Shanklin asked if sewer rehab would involve 11 new people that are on board now. Ihler said no, the sewer construction division involves 25 people and they are not fully staffed yet, but about 1/3rd have been hired.

Shanklin asked if the total investment would be \$700,000. Ihler said if the two buildings are approved, the total investment would be \$875,000; staff recommendation is to use the \$700,000 approved last August and the additional \$175,000 come from the 1995 CIP. Mayor Powell said this is still doing what we told the people we would do because it was an understanding in the rehab portion earlier on that Council approved. Ihler said there would be no additional funds coming from the sewer rehab program.

Shanklin said we have not grown any to speak of but the staff keeps growing and he wondered what some of the citizens might think. He said he understood the growth in the sewer rehab personnel. Ihler said the growth is in the sewer rehab with 25 in the construction division and five in the design division.

Mayor Powell asked why Ihler felt Engineering should be moved to the Public Works yard. Ihler said there would be a benefit in coordination between the wastewater and water groups and the engineers; the GIS maps and atlases for water, sewer and drainage would be right there and they can use the people in the field to help put those together.

Purcell said earlier tonight Council approved the use of \$246,000 of the unappropriated CIP, and if this is approved, it will be another \$175,000. He asked if there was \$421,000 still left in the 1995 CIP unappropriated. Ihler said there was approximately \$730,000 from what was in the balance. Purcell asked if that is after everything that is being done tonight, including the \$175,000, if the balance will be \$730,000. Ihler said yes, approximately \$700,000 would remain in that unappropriated projected balance at the end of the 1995 CIP.

Sadler asked the approximate size of the buildings. Ihler said the Equipment Maintenance building will be in the area of 18,000 square feet. Sadler asked if that was so it did not have to have a sprinkler system. Ihler said that was part of the consideration, when you add the 2,000 square feet to the Admin building, if they were combined, it would be greater than 20,000 square feet and they would rather put that money in space than in fire walls and sprinkler systems. Ihler said the Admin building would be 4,200 square feet, and that would be office space for 19 people. Sadler said we do want to be sure we are following our own codes. Ihler said they would have to get building permits and follow the codes just as any contractor.

Baker said in addition to the better coordination of Engineering and Public Works, another reason to move Engineering to the yard is to make space available for Building Development. He said they would like to form a one stop building permit and a license section so that no matter what kind of license or permit you want from the City of Lawton, you go to one office and you do not have to be running from one office to another to try to figure out what to do. Shanklin asked if that would be in City Hall and Baker said yes.

Baker said even if we were not talking about the sewer rehab program, the Public Works personnel staff have worked in substandard facilities for years. He said he was in that building for about 17 years and for about four months out of the year, you are numb from the knees down because you cannot keep it warm. Baker said the facilities are inadequate and recommended something be done to give them adequate facilities at the yard in addition to addressing the sewer rehab. He said the reason he supported Option Three was the additional \$175,000 needed, he did not believe it should be taken from the sewer rehab fund that was designated specifically for that project, although they can legitimately take that \$175,000 from the 1995 CIP and it is a legitimate expenditure from that fund, so he recommended Option Three.

Warren said this can be discussed further during budget reviews and the one stop is a wonderful idea but his concern was if they were looking at accomplishing that by re-working what we have or will we be adding people to get that accomplished. Baker said he did not believe they were looking at adding any staff but may be reclassifying a few and a note was sent out recently about an additional plans examiner, but they are looking at deleting an inspector in favor of another plans examiner, and things like that.

MOVED by Shanklin, SECOND by Smith, to adopt Option Three. AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams, Sadler. NAY: None. MOTION CARRIED.

Option Three as shown in the agenda folder is as follows: "This option would also provide for two buildings. One for vehicle maintenance and one for Public Works/Engineering Administration and Engineering Division. The funding for this option would come from sewer rehabilitation funds (\$700,000 original funding) and 1995 CIP unappropriated funds (\$175,000). Total cost of this option is \$875,000. This option would provide the additional space needed for the "One Stop" concept for reviews/permits and would combine Public Works/Engineering Administration and Engineering Division offices in a common building."

11. Consider adopting an ordinance creating Section 9-208 and declaring an emergency, and adopting a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, providing provisions for the Municipal Judge to perform marriage ceremonies and setting an appropriate fee. Exhibits: Ordinance No. 99-15; Resolution No. 99-19.

Vincent said Council directed staff to prepare an ordinance authorizing the Municipal Judge to perform marriage ceremonies in accordance with a new State Statute that gave that authority if so desired. He said several cities were contacted that had adopted this policy regarding their fees, and the proposed resolution is a consensus of the fees being charged in both Tulsa, Oklahoma City, Midwest City and Norman; all are \$10 and a \$1 witness fee since many times the couple may not bring a witness and use other employees that may be nearby.

MOVED by Williams, SECOND by Smith, to approve Ordinance No. 99-15, declaring an emergency, waive reading of the ordinance, read the title only, and to approve Resolution No. 99-19.

(Title read by Clerk) Ordinance No. 99-15

An ordinance relating to the court, creating Section 9-208, Chapter 9, Lawton City Code, 1995, authorizing the Municipal Judge to solemnize marriage ceremonies; providing for codification and declaring an emergency.

(Title only) Resolution No. 99-19

A resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, relating to fees for solemnization of marriages and providing for an effective date.

VOTE ON MOTION: AYE: Shanklin, Beller, Haywood, Warren, Smith, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

12. Consider adopting an ordinance relating to motor vehicles, amending Section 23-103, Chapter 23, Lawton City Code, 1995, amended, amending requirements for insurance verification forms, providing for severability and declaring an emergency. Exhibits: Ordinance 99-16.

Vincent said the State Statutes were recently amended; the Statute previously applied only to cars licensed in the State of Oklahoma and it now says operated in the State of Oklahoma, rather than licensed in the State of Oklahoma. An exception is provided for those states that do not have insurance verification requirements, and six states are in that category. The ordinance is in line with State Statutes and it will enable the Police Department to enforce the codes.

MOVED by Purcell, SECOND by Haywood, to approve Ordinance No. 99-16, waive the reading of the ordinance, reading the title only and declaring an emergency.

(Title read by Clerk) Ordinance No. 99-16

An ordinance relating to motor vehicles, amending Section 23-103, Chapter 23, Lawton City Code, 1995, as amended,

amending requirements for insurance verification forms, providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Beller, Haywood, Warren, Smith, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

13. Consider adopting an ordinance adding a section to Chapter 22, Lawton City Code, to establish a rebate program for mulching lawn mowers. Exhibits: Ordinance No. 99-\_\_\_\_.

This item was stricken from the agenda due to earlier action of the Lawton Water Authority.

#### CONSENT AGENDA:

ITEM 14 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

15. Consider the following damage claim recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: Terry Gonzales. Exhibits: Legal Opinion/Recommendation. (Resolution No. 99-20 on file in City Clerk's Office)

(Title only) Resolution No. 99-20

A resolution authorizing and directing the City Attorney to assist Terry Gonzales in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Two and 62/100 dollars (\$1,002.62).

16. Consider accepting the annual audit report of the City of Lawton for the year ending June 30, 1998. Exhibits: Responses to internal control and compliance report. Action: Accept annual audit report of the City of Lawton for the year ended June 30, 1998.

17. Consider accepting a Grant of Easement for Right of Way from the Bureau of Indian Affairs (BIA) located in the SW/4 of Section 5, T-1-N, R-11-W, IM, Comanche County, Oklahoma. Exhibits: None. Action: Approval of item. (Bishop Road Interceptor Project; 36" sanitary sewer line)

18. Consider accepting the Utility Reconstruction Project 97-10 as completed by Bowen Construction and placing the Maintenance Bond into effect. Exhibits: None. Action: Approval of item. Project consisted of raising a water valve vault and replacing a 4" gate valve, etc. on the 42" pump line from Lake Ellsworth to Lake Lawtonka; some items were necessary to accommodate the highway construction project.

19. Consider setting a date of April 13, 1999, to hold a public hearing and consider an ordinance closing a portion of the east-west alleyway running through Block Six (6), McClung Addition, located in the Southeast corner of the intersection of 11th Street and Lee Boulevard. Exhibits: Application; 300' Notification Map; Council Policy No. 5.1. Action: Approval of item.

20. Consider approving Releases of Mortgage on residential properties belonging to Ok Chul Vogel; Joe M. & Juanita Espinoza; Barbara J. Senter; Iris E. Lindsay; and Mary E. Harmon; and Release of Conditional Lien on residential property belonging to David Kent Jung & Laura Jung, all of Lawton, Oklahoma, and authorize execution of the Releases of Mortgage and Release of Conditional Lien. Exhibits: None. Action: Approval of item.

21. Consider approving Releases of Mortgage on residential properties belonging to Oma F. Love; Imogene A. Morris; Fritz G. Purdum; Henry G. & Beverly M. Hollowell; Garland H. & Irene F. Garrett; and Charles J. & Claudia Daniels, all of Lawton, Oklahoma, and authorize execution of Releases of Mortgage. Exhibits: None. Action: Approval of item.

22. Consider approving an amendment to Council Policy 1-6, Council Rules of Procedure, with regard to the Reports Section being heard before items requiring executive session. Exhibits: Revision to Council Policy No. 1-6. Action: Approval of item.

23. Consider entering into a professional services agreement between the City and Arland V. Perkins Consulting, Inc. for negotiations with the International Association of Fire Fighters, Local 1882 (IAFF). Exhibits: None. Action: Approval of item.

24. Consider approving modification of the agreement between the City and the State of Oklahoma Office of Juvenile Affairs for the development, operation and management of a Community Intervention Center in Lawton. Exhibits: Modification of Agreement. Action: Approval of item.

25. Consider approving the following contract extensions:

- A) Jogging Track Material: Red Dog Track, Inc. (Parks & Grounds)
- B) Outdoor Tennis Court Paint: BSN Sports (Parks & Grounds)
- C) Sprinkler System Parts: Davis Pipe & Supply, Inc. (Parks & Grounds)
- D) Powdered Activated Carbon: Van Waters & Rogers, Inc. (Water Treatment Plant)
- E) Vehicle Striping Kits: Tuxall Uniform & Equipment (Police)
- F) Crane Service: Eddie Johnson's Welding & Machine (Water/Wastewater)

G) Refuse Containers: WastequipTeam (Solid Waste Collection)  
H) Groundwater Laboratory Analysis: Anachem, Inc. (Solid Waste Disposal)  
Exhibits: Fact Sheet. Action: Approval of contract extensions.

26. Consider approval of appointments to boards and commissions. Exhibits: Memo.  
Traffic Commission: Sharlene Campbell, Term: 2/23/99 to 2/23/2002  
Building Development Appeal Board: Bill Williams, Commercial Building Owner, Term: 2/23/99 to 3/10/2000  
Parks & Recreation Commission: Tom Hall, Ward 2, Term: 2/25/99 to 2/25/2001

27. Consider approval of payroll for the period of February 22 through March 7, 1999. Exhibits: None.

Purcell asked that Item 14 be considered separately. Shanklin asked what was being amended in Item 22 and the Clerk said it was to move the Reports section of the agenda before the executive session items.

MOVED by Smith, SECOND by Williams, to approve the Consent Agenda items as recommended with the exception of Item 14. AYE: Haywood, Warren, Smith, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

14. Consider the following damage claim recommended for denial: William E. and Willie M. Dixon. Exhibits: Legal Opinion/Recommendation.

William Dixon, 4501 Aberdeen, said he had not had a sewer problem for 22 years, although some of his neighbors had experienced some over the years. He described his sewage backup, related damage and efforts to clear the lines, noting that people some times put lumber or other items in manholes. He asked for assistance in paying at least some of the bills which were about \$1,200.

Vincent said they feel bad when they cannot provide any help but the law is clear that we cannot do so and the research shows no prior problems so they cannot recommend approval.

Shanklin asked if anyone believed there was a sewer line left in Lawton that was over five years old that had not had an obstruction. He said he did not believe it.

Beller asked if insurance covered any portion of the damage. Dixon said no, the insurance will not cover anything and that he had even asked about buying additional insurance for things of this nature and they do not cover it. Beller said it may be possible that someone in the neighborhood had called in at some time saying there was a problem and it does not get documented to the level of being considered as prior notice. Beller said he felt the City had some liability when the stoppage was in the main, rather than a service line.

MOVED by Beller, to approve the amount of \$1,188.89.

Vincent said we are aware of the problems with the sewer system and one of the things we look at for notice is not only other problems but also if the line has been identified on the SSES, and this line was not on the SSES as needing rehabilitation. He said if a determination is made on this claim that the City is negligent, it would establish a precedent that probably would apply to other sewer backups also.

Shanklin said he had seen claims in the past that were recommended for denial and had talked to the neighbors on either side and across the way and found there had been other backups, and one was backing up into the yard when he was checking into it. He said he appreciated the City Attorney's information but Mr. Dixon is a citizen and expects proper service.

Vincent said if Council so desired, a report could be prepared suggesting that until the rehab is completed by phases to consider all sewer backups as problem lines. He said once the rehab is done in an area, there would have to be proof of notice and go back to the old notice standard because we do have numbers of lines with problems, but not all lines.

Warren said he did not think the City could afford it and this would set a precedent we could not keep up with. He said the only option is to apologize and explain the recourse through District Court.  
Haywood offered a SECOND TO THE MOTION.

Mayor Powell asked the amount in the motion and Beller said \$1,188.89. Shanklin asked if staff had checked to see if that was a proper amount. Vincent said because of the recommendation they did not evaluate the amount of the claim.

SUBSTITUTE MOTION by Shanklin, SECOND by Purcell, that staff get with Mr. Dixon and see what the claim actually is and see if there is some adjustment. AYE: Warren, Smith, Williams, Sadler, Purcell, Shanklin, Beller, Haywood. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

28. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss possible litigation by Southwest Outdoor Advertising, and, if necessary, take appropriate action in open session. Exhibits: None.

29. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending workers' compensation claim of Ricky Prince, Claim No. 90-21308R, in the Workers' Compensation Court of Oklahoma, and, if appropriate, take action in open session. Exhibits: None.

30. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss settlement in a pending workers' compensation suit styled Raymundo Quiroga vs. City of Lawton, Case No. WCC 98-2790 Q, in Workers' Compensation Court, and, if appropriate, take action in open session. Exhibits: None.

MOVED by Williams, SECOND by Warren, to convene in executive session as shown on the agenda and recommended by legal staff. AYE: Shanklin, Beller, Haywood, Warren, Smith, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

The Mayor and Council recessed from 8:55 to 9:00 p.m. and convened in executive session at approximately 9:00 p.m. The Mayor and Council reconvened in regular, open session at approximately 9:15 p.m. with roll call reflecting all members present.

Vincent reported Item 28 was possible litigation by Southwest Outdoor Advertising and he recommended that no action be taken at this time.

Vincent reported Item 29 was the pending workers' compensation claim of Ricky Prince, Claim No. 90-21308R, in the Workers' Compensation Court of Oklahoma, and he recommended a motion authorizing the City's workers' compensation attorney to settle the case with settlement authority so long as there is a full release of any liability to the City as the result of the injury or illness incurred by Mr. Prince.

MOVED by Smith, SECOND by Haywood, to authorize the City's workers' compensation attorney to settle the case with settlement authority so long as there is a full release of any liability to the City as the result of the injury or illness incurred by Mr. Prince. AYE: Haywood, Warren, Smith, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

Vincent reported Item 30 was a pending workers' compensation suit styled Raymundo Quiroga vs. City of Lawton, Case No. WCC 98-2790 Q, in Workers' Compensation Court. He said a settlement offer was received and he recommended a motion to reject the settlement offer.

MOVED by Warren, SECOND by Smith, to reject the settlement offer in Item 30. AYE: Warren, Smith, Williams, Sadler, Purcell, Shanklin, Beller, Haywood. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Smith said the blood drive was held Tuesday with 52 units donated, which was about 70% of the staff that were available to give blood at that time. He expressed appreciation for the participation. Mayor Powell expressed appreciation to Smith for his work in this regard.

Beller said Council received a report from Planning on private streets, and a letter had been sent to the Airport Manager indicating the item would be on tonight's agenda and it was not. He said the Authority voted to ask the City to make all roads on the airport public property to allow for control and policing, not just the access road. Baker said the item would be on the agenda for the first meeting in March and staff would look at the additional roads at the Airport.

Purcell said the audit report was on the consent agenda and staff should be complimented on a good audit where no deficiencies were noted. He mentioned that the report did not address the question of water costs.

Haywood named residents in the 1600 block of Douglas who wanted to express appreciation to Public Works for the street improvements that are being made.

Beller said representatives were present from Stanfield & O'Dell regarding the audit and waited almost three hours for consideration of the audit. He suggested those items be moved forward when a person is present with an interest. Mayor Powell said that is done routinely when he is aware if someone is present, so long as Council agrees.

There was no further business and the meeting adjourned at 9:25 p.m. upon motion, second and roll call vote.